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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,597	09/11/2000	Steven P. Larky	0325.00418 CD117	4974

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EXAMINER

WEST, JEFFREY R

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/658,597

Applicant(s)

LARKY ET AL.

Examiner

Jeffrey R. West

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.


MARC S. HOFF
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Continuation of 2: The recitation of the proposed amended claims requiring that a slow speed tester perform high speed tests of a device at a first speed exclusively through an apparatus is a new issue that was not earlier presented and would require additional search and/or consideration.

Continuation of 5: Applicant argues that "Chakradhar does not teach the test generator block being coupled to the slow tester 10.1" because while the present invention focuses on generating test vectors taking into account the speed limitations of the tester, "[t]aking limitations of the slow tester 10.1 into account does not show that there must be an interface between the tester generator block and the slow tester 10.1". The Examiner maintains that since the test generator generates test vectors as a function of both state changes as well as changes in the input value (i.e. values from the low speed tester) (column 10, lines 17-32) through integration of the speed limitations of the tester (column 7, lines 33-35), the test generator and the slow tester must be coupled by some means in order for the test generator to receive the input values as well as information from the slow tester indicating its speed in order to perform the aforementioned integration. Further, since independent claims 15 and 16 do not contain the limitation of an "apparatus coupled between a low speed tester and a device" this argument is not persuasive with respect to these claims.

Applicant also argues the combination of Hannah and Chakradhar. Hannah teaches a modular USB system comprising a plurality of USB devices wherein one device acts as a host to execute commands to the other devices while Chakradhar teaches a modular system for executing test commands wherein the tester operates at a speed slower than that of the device under test. The Examiner maintains that one having ordinary skill in the art would have been motivated to combine the inventions of Hannah and Chakradhar in order to insure accurate operation of the USB devices of Hannah in a way that would be cost-effective by using an inexpensive slow speed tester, rather than a more expensive high-speed tester running at the speed of the device under test (Chakradhar, column 6, lines 62-67, column 7, lines 21-27, and column 12, lines 40-42). The Examiner also notes that while Applicant argues the statement of "insuring accurate operation" because "Chakradhar may be able to test a device, but testing only produces test results . . . nothing in Hannah or Chakradhar appears to teach or suggest a means to fix the problem to insure accurate operation" one having ordinary skill in the art would not continue operation of a device once it has been determined to be faulty and in this way only accurate operation would have been insured.

Applicant also argues that since "Hannah and Chakradhar are from different fields in the art . . . it is unlikely that one of ordinary skill in either field would consider the references to be analogous" and that "[o]bviousness requires the references to be in the same field of the Applicants' endeavor or, if not, then be reasonable pertinent to the particular problem with which the Applicants were concerned." In this case Applicant is concerned with at-speed testing of USB devices and the invention of Hannah is concerned with executing commands over a USB communication system while Chakradhar is concerned with at-speed testing techniques, and therefore the references are analogous.